FINAL RECOMMENDATIONS FOR THE BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

RECOMMENDATIONS OF THE JOINT SUNSET REVIEW COMMITTEE AND THE DEPARTMENT OF CONSUMER AFFAIRS (DEPARTMENT)

ISSUE #1. (CONTINUE REGULATION OF THE PROFESSION?) Should the licensing and regulation of geologists and geophysicists by the Board be continued?

Recommendation #1: ***The Joint Committee and the Department recommends that the State should continue with the licensing and regulation of geologists and geophysicists.***

Comments: Geologists and geophysicists make professional judgments that have major consequences impacting the economy of California and the health, safety, and welfare of the public. Hired primarily by public agencies to investigate potential geological hazards, possible contamination of groundwater sites, and the reconstruction of roads, geologists provide a highly skilled service. For the most part, geologists and geophysicists operate independent of oversight. For these reasons and because of the high earthquake risk in the state, the Joint Committee and Department recommends that the state continue regulating these professions.

ISSUE #2. (CONTINUE WITH THE BOARD?) Should the Board be continued, or its role be limited to an advisory body and the remaining functions be transferred to the Department?

Recommendation #2: ***The Joint Committee and the Department recommends that the Board be retained as the agency responsible for regulating the geology and geophysics professions.***

Comments: The Department recommends retaining the Board as the agency responsible for regulating the geology and geophysics professions. The board structure has proven effective for ensuring consumer and industry input into the regulatory process. There appears to be no compelling reason to change the regulatory structure for these professions.

ISSUE #3. (DEVELOP REGULATIONS ON THE USE OF THE GEOLOGIST STAMP?) Should Geologists be allowed to use their official stamp on real estate disclosure documents?

Recommendation #3: ***The Joint Committee and the Department recommends that the Board adopt regulations to define and clarify the use of the geologist registration stamp, and to expressly prohibit its use on real estate disclosure documents unless a geologic evaluation has been done.***

Comments: Registered Geologists are one of the professionals identified in real estate disclosure law with the technical expertise required to prepare real estate disclosure documents. AB 248 (Torlakson), which became law on January 1, 2000, specifically authorizes geologists to prepare real estate disclosure documents (California Government Code section 1103.4(c)). Although the Geologist may sign such documents, there is concern that placement of the Registered Geologist's stamp on real estate disclosure documents, specifically the Natural Hazard Disclosure Statements (NHDS), may mislead consumers into believing that they have received a complete geologic report (or opinion) regarding property, rather than just a sign-off on whether property is located within a zone for natural hazards.

The Board agrees, and has taken steps to advise their licensees that the use of the Registered Geologist seal on the NHDS document is an unacceptable practice. The Department had indicated that regulations should be adopted to define and clarify the use of the geologist registration stamp, and to expressly prohibit its use on real estate disclosure documents unless a geologic evaluation has been done.

ISSUE #4. (NEW DEFINITION OF THE PRACTICE NECESSARY?) Is a new definition of the practice of geology and geophysics necessary to more clearly define licensed versus unlicensed activity?

Recommendation #4: ***The Board should submit to the Joint Committee for review any proposed changes to the practice of geology and geophysics. The Department's Office of Legal Affairs should review the revised definitions to assure that there in no unintended broadening of the practices regulated by the Board.***

Comments: The Board indicated during its prior review in 1995, that they do not have a mechanism to efficiently identify unlicensed practice, and that a change in the license renewal process is under consideration which may assist the board to determine unlicensed practice in an efficient manner. The Joint Committee recommended that the Board pursue efforts to more clearly define the practice of geology and geophysics so as to determine licensed versus unlicensed activity.

The Board is proposing, and has submitted for review to the Joint Committee, new legislation to modernize the Act. The Board's revisions include for the first time sections defining the practices of geology and geophysics and all specialty title acts including engineering geology and hydrogeolgy.

Although clarification of the practice of geology and geophysics was recommended by the Joint Committee, it is unclear what impact these new definitions may have on professional practice that may be related to geology, both licensed and unlicensed (e.g., engineering, soil science, hydrology, etc.). The Board has similar concerns and has submitted these new practice definitions to the Office of Legal Affairs within the Department for review to insure there is no unintended broadening of the practices.

ISSUE #5. (CONTINUE WITH THE SEVEN-YEAR EXPERIENCE REQUIREMENT?)

The seven-year experience requirement, which includes a combination of education and supervised work experience, does not appear justified.

Recommendation #5: ***The Joint Committee recommends that the Board should consider reducing the experience requirement for geologists and geophysicists.***

Comments: The experience requirement for licensing a geologist is seven years, with two years of experience credited for a bachelor's degree, and an additional two years experience credited for graduate work toward a Masters or Ph.D. During the prior review of the Board, the Joint Committee indicated that the experience requirement appeared somewhat excessive and arbitrary, and five years additional experience beyond a bachelor's degree seems to require more than just the minimum competence necessary to practice in this profession. (Engineers are required to have only two years of supervised experience if they receive a bachelor's degree in engineering and only one year of supervised experience if they have a Masters or Ph.D. in engineering.) Considering the amount of experience required, and what amounts to appropriate "supervised" work experience, and then passage of a difficult examination by the applicant (with an average passage rate of 30%), it could take a graduate any where from five to ten years to gain entry into the profession. This far exceeds any other experience requirement of other boards. [The Center for Public Interest Law (CPIL) concurs with this analysis.]

ISSUE #6. (NEED FOR OTHER CHANGES TO BOARD'S ENFORCEMENT PROGRAM?)

The Board has developed new policies, practices and capabilities to improve the overall operation of its enforcement program. However, other changes may still be necessary?

Recommendation #6: ***The Joint Committee recommends that the Board should continue with the efforts it is has been making to improve the overall operation of its enforcement program. The Board should pursue its budget change proposal for an additional Associate Engineering Geologist to handle the increasing workload within its enforcement program, and to perform random inspections or audits of state or local geologic reports, especially in areas that are more susceptible to natural geologic disasters.***

Comments: The Board 's number one priority since the last sunset review has been strengthening its enforcement program. The Board hired a full-time Associate Engineering Geologist as the Enforcement Manager. The Enforcement Manager is a licensed Registered Geologist and Certified Engineering Geologist who reviews the cases and incoming complaints. Cases forwarded to the Division of Investigation more than tripled in the last year. Enforcement staff have developed a good working relationship with the Division of and also increased the technical expert base to include experts from various specialties such as fault investigations, seismic hazards including landslide and liquefaction evaluation, groundwater contamination evaluation, water resource evaluation, geophysical investigations and mineral evaluation. In addition, the Board established an Enforcement Oversight Committee in 1998, to review closed cases and assist in identifying trends in enforcement activities. The Board also implemented its cite and fine authority The Board has also adopted Disciplinary Guidelines and a Code of Professional standards (Code of Ethics) through the regulatory process to assist Enforcement staff in processing complaints from the public. Since the caseload in the enforcement program continues to increase, the Board has requested an additional Associate Engineering Geologist to handle the increasing workload.